

CHAPTER 460 OSTEOPATHY

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§460-1 License to practice. No person shall practice as an osteopathic physician either gratuitously or for pay, or shall offer to so practice, or shall advertise or announce, either publicly or privately, that the person is prepared or qualified to so practice, or shall append the letters "Dr." or the letters "D.O." to the person's name, with the intent thereby to imply that the person is a practitioner as an osteopathic physician, without having a valid unrevoked license, obtained from the board of medical examiners, in form and manner substantially as hereinafter set forth.

Nothing herein shall:

- (1) Apply to any osteopathic physician from another state who is in actual consultation with a licensed physician of this State if the physician from another state is licensed to practice in the state in which the physician resides; provided that the physician from

- another state shall not open an office, or administer treatment to any patient except in actual temporary consultation with a resident licensed physician of this State; or
- (2) Prohibit services rendered by any osteopathic physician's assistant when the services are rendered under the supervision, direction, and control of an osteopathic physician licensed in this State, as may be specified by rule or statute. The board of medical examiners shall adopt rules to define the type of supervision, direction, and control that must be maintained and the extent that the personal presence of the osteopathic physician will be required. Any osteopathic physician who employs or directs an osteopathic physician's assistant shall retain full professional and personal responsibility for any act which constitutes the practice of osteopathic medicine and surgery when performed by an osteopathic physician's assistant.

[§460-1.3] Practice of osteopathy defined. Osteopathic medicine and surgery is a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescribing and administration of drugs and biologicals of all kinds, operative surgery, obstetrics, radiological, and other electromagnetic emissions, and placing special emphasis on the interrelation of the neuro-musculoskeletal system to all other body systems, and the amelioration of disturbed structure-function relationships by the clinical application of the osteopathic diagnostic and therapeutic skills for the maintenance of health and treatment of disease.

[§460-1.5] Voluntary limitation of license. A licensee may request, in writing, that the board limit the individual's license to practice. The board may grant the request and may impose conditions on the limited license. The board shall determine whether and when such limitation shall be removed.

[§460-1.6] Limited and temporary licenses. The board may issue a limited and temporary license to an applicant who is otherwise qualified to be examined upon determination that the applicant has been appointed to an internship that meets the requirements of section 460-6(2); provided that no disciplinary actions or proceedings are pending against the applicant in any state or territory. The applicant's practice shall be limited to duties as a resident or as directed by the program of training while at the hospital. The license shall be valid for one year and may be renewed from year to year during the period of residency.

§460-2 Former license. Any license issued prior to March 14, 1921, under the laws of the Territory to any graduate of a legally chartered college of osteopathy in good standing, authorizing its holder to practice osteopathy, shall in no wise be affected by this chapter, except that revocation thereof may be had in accordance with this chapter.

§460-3 License required for osteopathic physicians. No person shall be licensed by the board of medical examiners to practice as an osteopathic physician unless the applicant has been duly examined and found to be possessed of the necessary qualifications, or found to be otherwise qualified as herein provided.

As used in this chapter, "board" means the board of medical examiners.

§460-4 REPEALED.

§460-5 Fees. (a) No applicant for a license to practice as an osteopathic physician and surgeon shall be examined until the applicant has paid to the board application and examination fees.

(b) Section 460-2 and any other provisions of this chapter to the contrary notwithstanding, there shall be paid to the board by every person licensed to practice as an osteopathic physician and surgeon, biennially in each even-numbered year on or before June 30, a renewal fee. Failure of any licensee to pay any renewal fee shall work a forfeiture of the license. Licenses forfeited by this section shall be restored upon payment of a penalty fee and all fees which the licensee would have paid if the licensee had continuously renewed the license.

§460-6 Application and licensure. Before any applicant shall be eligible for licensure, the applicant shall be found to possess the necessary qualifications and submit evidence satisfactory to the board that:

- (1) The applicant is a graduate of a school or college of osteopathy which is approved by the American Osteopathic Association;
- (2) The applicant has served an internship of at least one year in a hospital approved by the American Osteopathic Association and the American College of Osteopathic Surgeons, or in a hospital approved by the American Medical Association, or the equivalent of the requirement as determined by the board if the applicant graduated prior to 1943; and
- (3) The applicant has passed the National Board of Osteopathic Medical Examiners examination (NBOME), or the Federation Licensing Examination (FLEX), or the United States Medical Licensing Examination (USMLE), or a combination of parts of the FLEX and USMLE as approved by the board, with scores deemed satisfactory by the board.

§460-7 REPEALED.

§460-8 License issued. Each applicant who successfully passes the examination shall pay a license fee to practice as an osteopathic physician and surgeon in accordance with the teachings of legally chartered and approved colleges of osteopathy in good standing, with the following rights, among

others, to wit: to practice obstetrics; to practice surgery; and to administer anesthetics, antiseptics, germicides, parasiticides, biologicals, narcotics, and antidotes.

§460-9 Foreign license. (a) The board may issue a license to a practitioner who has been licensed in any country, state, territory, or province; provided the requirements for a license in the country, state, territory, or province in which the applicant is licensed, are deemed by the board to be equivalent to the requirements for a license in force in this State at the date of the license. The applicant shall also satisfy the requirements of section 460-6(3).

(b) The board, in its discretion, may issue a license, without examination, to an osteopathic physician and surgeon who is a graduate of an approved osteopathic college in good standing and who has passed an examination for admission into the medical corps of the United States Army, Navy, or Public Health Service.

§460-10 Display license. Every holder of a license shall display it in a conspicuous place in the licensee's principal place of business or employment.

§460-11 Privileges and obligations. Osteopathic physicians and surgeons shall observe and be subject to all state and county regulations relative to reporting births and deaths and all matters pertaining to the public health, with equal rights and obligations as physicians of other schools of medicine.

In public institutions, osteopathic physicians and surgeons licensed hereunder shall have the same privileges and the same rights to practice their profession in the treatment of cases and the same right to hold office as are accorded to physicians and surgeons of other schools.

§460-12 Refusal, suspension, and revocation of license. In addition to any other grounds for denial of license or disciplinary action authorized by law, the board may refuse to issue a license, or may suspend or revoke any license at any time in a proceeding before the board for any cause authorized by law, including but not limited to the following:

- (1) Procuring or aiding or abetting in procuring a criminal abortion;
- (2) Employing any person to solicit patients for one's self;
- (3) Engaging in false, fraudulent, or deceptive advertising, including, but not limited to:
 - (A) Making excessive claims of expertise in one or more medical specialty fields;
 - (B) Assuring a permanent cure for an incurable disease; or
 - (C) Making any untruthful and improbable statement in advertising one's osteopathic practice or business;
- (4) Being habituated to the excessive use of drugs or alcohol; or being addicted to, dependent on, or an habitual user of a narcotic, barbiturate, amphetamine, hallucinogen, or other drug having similar effects;

- (5) Practicing medicine while the ability to practice is impaired by alcohol, drugs, physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit or knowingly permitting an unlicensed person to perform activities requiring a license;
- (7) Professional misconduct, gross carelessness, or manifest incapacity in the practice of osteopathy;
- (8) Negligence or incompetence, including, but not limited to, the consistent use of medical service in osteopathy which is inappropriate or unnecessary;
- (9) Conduct or practice contrary to recognized standards of ethics of the osteopathic profession as adopted by the American Osteopathic Association;
- (10) Revocation, suspension, or other disciplinary action by another state of a license or certificate for reasons as provided in this section;
- (11) Conviction, whether by nolo contendere or otherwise, of a penal offense substantially related to the qualifications, functions, or duties of an osteopathic physician and surgeon, notwithstanding any statutory provision to the contrary;
- (12) Violation of chapter 329, the uniform controlled substances law, or any rule adopted thereunder; or
- (13) Failure to report to the board by a licensee, in writing, any disciplinary decision issued in another jurisdiction against the licensee within thirty days after the disciplinary decision is issued, or failure to report to the board by an applicant, in writing, any disciplinary decision issued in another jurisdiction against the applicant prior to the application or during the pendency of the application.

§460-13 REPEALED.

§460-14 Notice of charges, hearing. (a) In any proceedings before the board for the revocation or suspension of a license under this chapter, upon any of the grounds listed in section 460-12, the person whose license is sought to be revoked or suspended shall be given, pursuant to chapter 91, reasonable written notice of the charge or charges upon which the proceeding is based and of the time and place where a hearing will be held and shall be given reasonable opportunity to be heard and present evidence in the person's defense.

In the proceeding, the board may subpoena, administer oaths to, and examine witnesses on any relevant matter in the proceeding. The person whose license is sought in the proceeding to be revoked or suspended shall be entitled to require the board or any member thereof to subpoena and to administer oaths to any witness or witnesses who may be able to present evidence relevant in the proceeding, and shall be entitled to examine the witness and any other witness in the proceeding. The circuit court of the circuit in which the proceeding is held shall have power to enforce by proper proceeding the attendance and testimony of witnesses in the proceeding.

(b) If any person called before the board as a witness in the proceeding, whether under subpoena or otherwise, except as privileged by law, refuses to answer any question which is relevant to the proceeding and is put to the person by the board, a member thereof, or the person whose license is

sought to be revoked or suspended in the proceeding, or disobeys any order of the circuit court relating to the proceeding, the board shall report the matter in writing to any judge of the circuit court of the circuit in which the proceeding is held and the person shall be cited to appear before the circuit judge to show cause why the person should not be punished for contempt of court.

(c) Any person who wilfully and knowingly makes, under oath, any false statement in connection with any proceeding before the board shall be subject to chapter 710, part V. Whenever the board is satisfied that a witness has violated chapter 710, part V in any proceeding before the board, it shall report the same to the prosecuting officer of the county in which such violation took place, who shall prosecute the witness.

§460-14.5 Disciplinary action. In disciplining a licensee in a proceeding under section 460-12, the board may impose one or more of the following actions:

- (1) Place the licensee on probation, including conditions of probation as requiring observation of the licensee by an appropriate group or society of licensed osteopathic physicians and surgeons;
- (2) Suspend the license;
- (3) Revoke the license;
- (4) Limit the license by restricting the fields of practice in which the licensee may engage;
- (5) Fine the licensee, including assessment against the licensee of the costs of the disciplinary proceedings. Any fine imposed by the board after a hearing in accordance with chapter 91 shall be not less than \$500 nor more than \$5,000 for each violation exclusive of the costs of the disciplinary proceedings; or
- (6) Require further education or training or require proof of performance competency.

§460-15 Remedies or penalties cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws in this State.

§460-16 Penalties. Each of the following acts constitutes a misdemeanor, punishable upon conviction by a fine of not more than \$250:

- (1) The practice of osteopathy or an attempt to practice osteopathy without a license;
- (2) The obtaining of, or an attempt to obtain a license, or practice in the profession, or money or any other thing of value by fraudulent misrepresentation;
- (3) The making of any wilfully false oath or affirmation whenever an oath or affirmation is required by this chapter;
- (4) Advertising, practicing, or attempting to practice under a name other than one's own;
- (5) The violation of this chapter.

§460-17 Records. The board shall keep a record which shall be open to public inspection at all reasonable times, of proceedings relating to the issuance, refusal, renewal, suspension, and revocation of licenses to practice osteopathy. This record shall also contain the name, known place of business and residence, and the date and number of the license of every registered osteopathic physician.

[§460-18] Reporting requirements. (a) Every osteopathic physician and surgeon licensed pursuant to this chapter who does not possess professional liability insurance shall report any settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or the unauthorized rendering of professional services. The report shall be submitted to the department of commerce and consumer affairs within thirty days after any written settlement agreement has been reduced to writing and signed by all the parties thereto or thirty days after service of the arbitration award on the parties.

(b) Failure of an osteopathic physician and surgeon to comply with the provisions of this section is an offense punishable by a fine of not less than \$100 for the first offense, \$250 to \$500 for the second offense, and \$500 to \$1,000 for subsequent offenses.

(c) The clerks of the respective courts of this State shall report to the department any judgment or other determination of the court which adjudges or finds that an osteopathic physician and surgeon is liable criminally or civilly for any death or personal injury caused by professional negligence, error, or omission in the practice of the osteopathic physician and surgeon's profession, or rendering of unauthorized professional services. The report shall be submitted to the department within ten days after the judgment is entered by the court.

(d) The department shall prescribe forms for the submission of reports required by this section.

§460-19 Review of complaints and information by department. (a) The department of commerce and consumer affairs shall review each complaint and information received under sections 92-17, 329-44, 460-18, 663-1.7, 671-5, and 671-15. The department shall investigate the complaint or information if it appears that the osteopathic physician who is the subject of the complaint or information has violated this chapter. If the department determines that the osteopathic physician has violated this chapter, the department shall present the results of its investigation to the board for appropriate disciplinary proceedings.

(b) Reports of adverse decisions of peer review committees transmitted to the department under section 663-1.7 shall not be available to public inspection or subject to discovery and shall be held confidential by the department; provided that:

- (1) A written affirmative or negative reply may be given to a written inquiry by a hospital or health care facility as to whether a report of an adverse decision is on file with the department; and
- (2) A subpoenaed report shall be subject to the requirements under section 460-20.

[§460-20] Subpoena of peer review adverse decision report. In connection with an investigation under section 460-19, the director of commerce and consumer affairs may issue subpoenas, pursuant to section 26-9 (j), compelling the production of hospital records of patients whose cases were reviewed by a peer review committee that filed a report pursuant to section 663-1.7, notwithstanding section 624-25.5. A medical society, hospital, or health care facility shall expunge from the documents specific patient identifiers. Information for investigation which was obtained through a subpoena shall be for the sole use by the department of commerce and consumer affairs to carry out its responsibilities and functions and shall be held confidential by the department, unless the information is admissible evidence at a hearing held under section 460-14. This investigation shall be deemed a sensitive matter related to public safety under section 92-5.

[§460-21] Rules. The board of medical examiners, established pursuant to chapter 453, shall adopt rules in accordance with chapter 91 for the administration of this chapter.